

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

THS GROUP LLC,

*Plaintiff,*

v.

COVALENT MARKETING, LLC, IBM, JSL  
ENTERPRISES, LLC, ACOUSTIC, L.P.,  
MGAGE, and MOBILE MARKETING,

*Defendants.*

Civil No.: 20-15655 (KSH) (CLW)

**ORDER**

THIS MATTER having come before the Court on the report and recommendation (D.E. 56) of Magistrate Judge Cathy L. Waldor, recommending that this action be remanded to the Superior Court of New Jersey for lack of federal subject matter jurisdiction; and

WHEREAS, the District Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge,” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.”); L. Civ. R. 72.1(c)(2) (district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge,” and “may consider the record developed before the Magistrate Judge, making his or her own determination on the basis of that record.”); and

WHEREAS, no party has filed objections to the report and recommendation, and the time for filing objections has expired; and

WHEREAS, this Court has reviewed the record and given “reasoned consideration” to the report and recommendation, *see EEOC v. Long Branch*, 866 F.3d 93, 99-100 (3d Cir. 2017); and

WHEREAS, the report and recommendation properly concluded that diversity jurisdiction is lacking where the plaintiff and at least one defendant are both citizens of the same state, *see Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010) (“Complete diversity requires that, in cases with multiple plaintiffs or multiple defendants, no plaintiff be a citizen of the same state as any defendant”); and

WHEREAS, the report and recommendation properly concluded that the record reflects that plaintiff and defendant Acoustic L.P. are both citizens of New Jersey, or, alternatively, Pennsylvania, and that therefore the parties are not completely diverse; and

WHEREAS, remand is required if it appears at any time before final judgment that subject matter jurisdiction is lacking, *see* 28 U.S.C. § 1447(c),

**NOW, THEREFORE, IT IS**, on this 6th day of May, 2021,

**ORDERED** that the report and recommendation (D.E. 56) is ADOPTED; and it is further

**ORDERED** that this case is REMANDED to the Superior Court of New Jersey, Law Division, Middlesex County.

The Clerk of the Court is directed to close this case.

/s/ Katharine S. Hayden  
Katharine S. Hayden, U.S.D.J.